



COMMODITY FUTURES TRADING COMMISSION

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Division of
Enforcement

April 6, 2018

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BY ECF

Chief Magistrate Judge Roanne L. Mann
United States District Court
Eastern District of New York
225 Cadman Plaza East
New York, New York 11201

Re: *Commodity Futures Trading Commission v. Patrick K. McDonnell and CabbageTech, Corp. d/b/a Coin Drop Markets, No. 18-CV-00361 (JBW)(RLM)*

Dear Chief Magistrate Judge Mann:

I am a Trial Attorney in the Division of Enforcement of the Commodity Futures Trading Commission (the “Commission”) and represent the Commission in the captioned matter. The Commission writes as requested by the Court concerning the teleconference with the Court that was scheduled for 10:30 a.m. today.

On April 3, 2018, the Commission requested permission to file under seal a Letter Motion to Compel (“April 3 Letter Motion”). (ECF 41.) On Wednesday, April 4, 2018, the Court’s clerk contacted me to request a teleconference with the parties concerning the Commission’s April 3 Letter Motion. After first attempting to contact Defendant Patrick K. McDonnell by telephone, I emailed Mr. McDonnell inquiring as to his availability for a teleconference during the time periods specified by the Court. Mr. McDonnell first indicated via email that he would get back to me regarding his availability and then emailed me again the next day (April 5) at 8:10 a.m. indicating that he would be available Friday (April 6) between 10:00 a.m. and 11:30 a.m., but asking to allow for a few minutes for possible transit delay. To accommodate Mr. McDonnell, I suggested to the Court’s clerk that we schedule the conference for 10:30 a.m. Friday, which the Court’s clerk confirmed. I then emailed Mr. McDonnell at 10:25 a.m. on Thursday (April 5) stating that the conference was set for 10:30 a.m. on Friday (April 6) and asking Mr. McDonnell to call the Commission shortly before 10:30 a.m. on Friday at a specified telephone number so the Commission could then conference in the Court.

Shortly after 10:30 a.m. today, having received no telephone call from Mr. McDonnell, I informed the Court’s clerk that the Commission was available, but was still waiting for Mr. McDonnell’s call. After waiting a few more minutes, I tried reaching Mr. McDonnell by telephone, but received no answer. At around 10:45 a.m., I informed the Court’s clerk that Mr. McDonnell had not called and that the Commission would be available today as long as the Court was available. The Court’s clerk indicated that the Court would be available until noon.

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At 10:52 a.m., I emailed Mr. McDonnell indicating that it may still be possible to have the conference call and asked Mr. McDonnell to call as soon as possible. By noon, Mr. McDonnell had not called or responded to my 10:52 a.m. email. At 12:18 p.m., Mr. McDonnell responded via email to my email of 10:52 a.m. stating: "I am unable to make the call my apologies."

Given Mr. McDonnell's failure again to actively participate in this action, and comply with this Court's instructions, the Commission respectfully asks the Court to grant the relief requested in the Commission's April 3 Letter Motion. The Commission further notes that it will seek a default judgment against McDonnell upon the Clerk of Court's entry of the Commission's requested Certificate of Default (ECF 42).

Respectfully submitted,

/s/ Alejandra de Urioste

Alejandra de Urioste

cc: Hon. Jack B. Weinstein (by hand delivery)
Patrick K. McDonnell (by email)